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(2)

No. 06-909

FILED
MAR 26 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

PAMELA SMITH **Petitioner**

v.

DON COCHRAN **Respondent**

PETITION FOR REHEARING

Pamela Smith
12139 E. 38th Street
Tulsa, Oklahoma 74146
(918) 660-2838
PRO SE

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INTRODUCTION

Petitioner Pamela Smith, Pro Se, pursuant to Supreme Court Rule 44, petitions the Court for rehearing of its decision in this matter denying certiorari, and respectfully asks this case be remanded to the lower court with instructions. Thus, granting certiorari will help not only the Petitioner but women in prison all over this country to know and understand they can pay their debt to society without being physically and sexually attacked by public officials. Congress has made clear its intent to confer upon United States citizens enforceable rights under the Eighth Amendment to be free from cruel and unusual punishment. "Her claim remains bounded by the Eighth Amendment, the explicit textual source of constitutional protection in the prison context." Graham v. Conner, 490 U.S. 386, 395 (1989) and Adkins v. Rodriguez, 59 F.3d 1034, 1037 (10th Cir. 1955). In Judge Cook's 2001 ruling, he says, "the

allegations of cruel and unusual punishment and of excessive force implicate prisoners' rights under the Eighth Amendment of the Constitution." See Cain v. Rock, 67 F.Supp.2d 544 (D. Md. 1999).

ARGUMENT

Petitioner was raped and the State of Oklahoma moved to cover-up the violation of law, protecting a DPS employee who had just two weeks prior to raping Smith, tried to rape a 15 year old driver's license applicant... Not only did the Respondent rape Smith, but he tried to rape several other women who came to DPS to obtain a driver's license. Their names will be provided upon request of the Court. Public Safety Officials received several complaints from women about this man, knowing full well this man was a predator but refused to follow their own rules and policies of discipline.

Since the Court has refused to address the seriousness

of rape within the prison system here, it seems to be saying that it's okay to rape women within our penal system, and now the United States Supreme Court in its refusal to address these serious problems is giving approval to this misconduct. It is about accountability. Judges know they will not be held accountable for their actions or inactions. They have a lifetime appointment, so it seems to the Petitioner, they really don't care, it really does not matter that women are raped repeatedly as long as it does not personally affect them. Now Petitioner can understand why rape victims cry in silence because their suffering of being victimized fall on U.S. Justices' dead ears. Would a woman chase this much pain if she had not been raped? **NO**. Federal law says that a prisoner should be free from sexual attacks by prison guards, jailers, etc, and that using a **GLASS SALT SHAKER** to assault a woman is certainly cruel and excessive AND PUNISHMENT, TO SAY THE LEAST. Raping a woman

with a glass salt shaker is evidence that her Eighth Amendment rights were violated, therefore once a person demonstrates to the Court that a statute confers an individual right, the right is presumptively enforceable by 42 USCS s 1983. DPS Lt. George Randolph brought the glass salt shaker in his jacket pocket for Petitioner to identify in 1999. When time came for Civil Trial and Grand Jury, no glass salt shaker, Lt. left it in his desk drawer. (See Exhibit "A", Final Report of Grand Jury at p. 8) Evidence was mishandled to protect Cochran. Judge Cook went on to say in his Order and Judgment in the 2001 case at page 9, "This individual right governs both the treatment prisoners receive while incarcerated and the conditions of confinement (see Farmer v. Brennan, 511 U.S. 825, 832 (1994)), requiring humane conditions and an environment of safety. See Hudson v. Palmer, 468 U.S. 517, 526-27 (1984) and Carrigan v. Davis, 70 F.Supp.2d 448, 454 (D. Del. 1999).

The Court requirements to properly show a violation of the Eighth Amendment are, the alleged infliction must be sufficiently serious and second, there exists a guilty or wrongful purpose. Certainly, anyone living in this country with a conscience knows it is wrong to violate a woman sexually because first and foremost, it is against her will and it is immoral. Common sense will tell you that putting a foreign object into one's vagina is very serious. Nothing could be more inhumane than having a glass salt shaker put into her vagina. And, is Petitioner to believe that this Court thinks this kind of behavior is okay by refusing to grant this writ in the interest of justice? Cochran violated Federal law as well as local law and no one finds his conduct outrageous enough to do something about this travesty of justice? Keep in mind he failed the polygraph regarding allegations of misconduct in the Rowe case. What this man did is criminal. Petitioner begged for criminal charges early on in 1998 to

law enforcement. Consider the Abu Ghraib incident where Iraqi prisoners were embarrassed by having pictures of them taken in the nude and being openly displayed to others. This conduct was found to be outrageous enough for those soldiers involved to be punished, yet an American citizen is unable to receive the same justice that foreigners received. This incident says to the American people that our Government will do whatever is necessary to protect foreigners but won't lift a finger to help its own citizens (inmates have rights). Congress has spoken with a clear and convincing voice, its intent to create individually enforceable rights and our courts should follow the mandate of the Congress and protect its citizens at all costs.

If your daughters are being raped by some public official, what would you want done to that person who violates your daughters?

The rulings from the lower courts never entertained

the question of whether or not there was discrimination under Title 42 USC 1983 as it relates to the Eighth, Fourth, Fifth and Fourteenth Amendments, or whether there was a discussion on whether there was a violation of Petitioner's federally protected rights. This case was not predicated on civil rights violations, but whether Smith had sex with Cochran. See Appendix A, page 4 from the Order and Judgment of the Court, June 28, 2006 which says, "At trial, the only issue before the jury was whether Cochran and Smith had engaged in sexual relations," not whether the acts themselves were a violation of Smith's constitutional rights. Why? Because Judge Cook would not allow information about cruel and unusual punishment into evidence, which is what was needed to support her claim under the Eighth Amendment, such information was key and central to her case. And if her civil rights were violated, the question which should have been before the jury is, did Cochran's

actions constitute a violation of Smith's civil rights? Within the jury instructions, Judge Cook never explained what constitutes violation of Federal civil rights laws. His instructions were unclear and unambiguous so the jury would have a clear meaning and picture as to what those instructions meant.

STATE COVER-UP

March 3, 1999 information sheet about the Smith rape was denied by Tulsa County District Attorney, Tim Harris' office before an investigation could be conducted into the allegation which shows the intent of the District Attorney to avoid a potential political firestorm. (See Exhibit "B")

Two weeks after the reported Rowe rape, he raped a vulnerable, powerless inmate named Pamela Smith, the Petitioner. (See Tulsa police incident report and two letters from DPS as Exhibit "C")

Then, when you look at the Order from Judge Gillert

who impaneled the Grand Jury, he disqualified the entire Tulsa County District Attorney's office and the entire Oklahoma Attorney General's office from acting in the capacity of legal advisor to the Grand Jury, said Order was completely ignored by the Attorney General's office, who appointed Gene Haynes, District Attorney for Craig, Mayes and Rogers counties, as acting legal advisor to the Grand Jury. This man did not represent to the Grand Jury the evidence to support an indictment of Cochran. In fact, he refused to call witnesses who knew anything about the Rowe and Smith cases. (See Order impaneling Grand Jury and Subpoena with Gene Haynes' signature on it as Exhibit "D")

To further show a cover-up and a denial of justice for the Petitioner, are two letters. One is from the DOC saying the Smith case is closed, dated December 16, 1998, and the other is from the DPS dated December 17, 1998, saying Lt. Randolph from Internal Affairs is assigned to the Smith case.

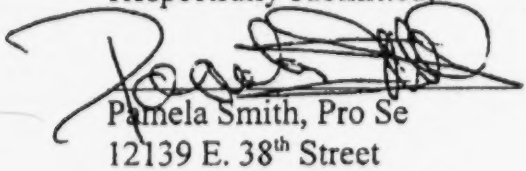
(See Exhibit "E", DPS and DOC letters)

CONCLUSION

Petitioner Smith contends that this Court should grant the Writ in the interest of Justice because she is entitled to have her constitutional rights enforced. Since the lower courts have demonstrated their unwillingness to objectively look at the evidence and conduct a fair and impartial trial, this Court is the only one that can resolve this issue.

Therefore, Petitioner prays that this Court will grant her Writ of Certiorari and remand this case back to the lower court with instructions on how to conduct a fair and impartial trial.

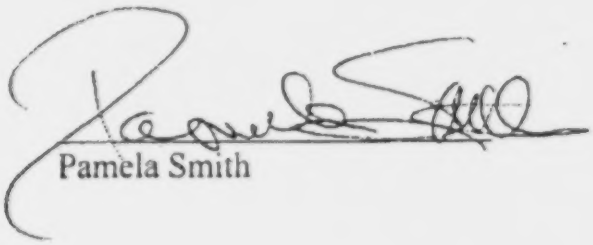
Respectfully submitted,



Pamela Smith, Pro Se
12139 E. 38th Street
Tulsa, Oklahoma 74146
(918) 660-2838

Certification Pursuant to Rule 44.2

The Petitioner, Pro Se, certifies that this Petition for Rehearing is presented in good faith and not for the purposes of any delay. The contents of the Petition for Rehearing are limited to matters cognizable under Rule 44.2 of the Rules of this Court.



Pamela Smith

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
F I L E D
DEC 8 • 2004
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

In the Matter of	)	
A PETITION TO IMPANEL	)	**Case Nos.: CJ 2004 04931**
A GRAND JURY	)	**CJ 2004 05092**

TO: The District Judge: The Honorable Thomas Gillert

FINAL REPORT OF THE GRAND JURY

We, the Grand Jury, duly empanelled on the 22nd day of November, 2004, and charged with the responsibility of investigating all public offenses against the state committed or triable within Tulsa County, as contained in the petition for the calling of the Grand Jury, duly filed in the office of the Court Clerk of Tulsa County on the 9th day of August, 2004, and in the petition for the calling of the Grand Jury, duly filed in the office of the Court Clerk of Tulsa County on the 13th day of August, 2004, and having in a fair and impartial manner, to the best of our abilities and understanding, and with due regard to the Court's instructions, and having heard sworn testimony of witnesses, and receiving numerous exhibits and having fully investigated any and all complaints alleged to exist in Tulsa County, and having been in session for 11 working days, and having heretofore after due deliberation voted according to law, the Grand Jury submits to this Honorable Court its Final Report as follows:

ALLEGATIONS OF PETITION FILED AUGUST 9, 2004 ON BEHALF OF PAMELA SMITH

EXHIBIT "A"

To investigate the facts and circumstances related to the repeated rape and sexual battery of Pamela Smith, which will include, but not be limited to, the following evidence:

a. Pamela Smith was an inmate in the custody of the Oklahoma Department of Corrections (DOC) from August 1996 until September 2000.

b. Between September 1997 and August 1998, Ms. Smith was housed at the Tulsa Community Corrections Center (TCCC).

RECOMMENDATIONS

1. It is the recommendation of the Grand Jury that strict, on-site supervision of inmates should be required for any inmate work release program sanctioned by the Oklahoma Highway Patrol. Recommendations are also made for these same agencies to implement and enforce policies that require proper handling and storage of any evidence that may potentially be necessary for criminal prosecution or defense.

BEST AVAILABLE COPY

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OA4301J-2
History#: 976881  Case#: DA History File Inquiry
                  DOA - 88 - 99311 - 88
Name: COCHRAN, DON                                    Div: C  Offense:
TPO/Priv:                                                      Agency: OHP
Appear.Age: 88 - 00-000: 33 - 00 - 00 SSN: 000 - 00 - 0000 DL:
Addr:                                                 Race:      Sex:  Hgt: 0'0" Wt: 000 Hair:  Eyes:
Misc:                                                 City-St-Zip:
Arr.Officer:
Off Dt: 11 - 01 - 97 to 05 - 98 - 98                  Statute  21 - 1111 - 0001 (  )
Victim: PAMELA SMITH                                  RAPE BY INSTRUMENTATION
Date Approved: 04 - 00 - 99          AFCF:            Race:          Sex:      Age:
Judge:                ST: OK         County TULSA     Domestic Violence: N      Court: DISTRICT
Under Name                                            Not OK Cases:             City: TULSA
Disp Date: 03 - 19 - 99               Term: 0000 to 0000
Disposition:                          Date entered by: ARL                      Disp Code: CCC
    DECLINED DLB

PF1=current     PF4=previous    PF7=alias-1     Record Nbr 001  of 001 ------
PF10=print      PF11=exit       Clear=menu      PF8=alias#:     PF9=summary
    * * * NO MORE DETAIL RECORDS * * *          PF5=attribute PF12=progress
```

T.M. Evans - UDN

Liz Egan TPD

Glass salt shaker put up V. vagina. Shown to V by OHP Trooper George Rankin.

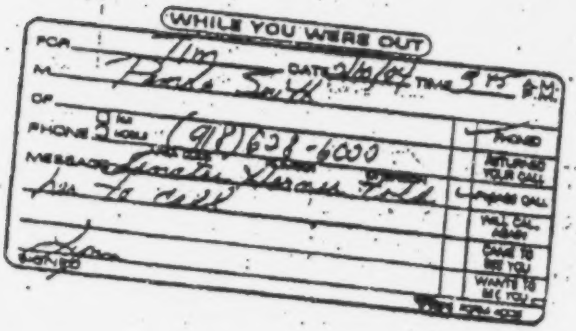
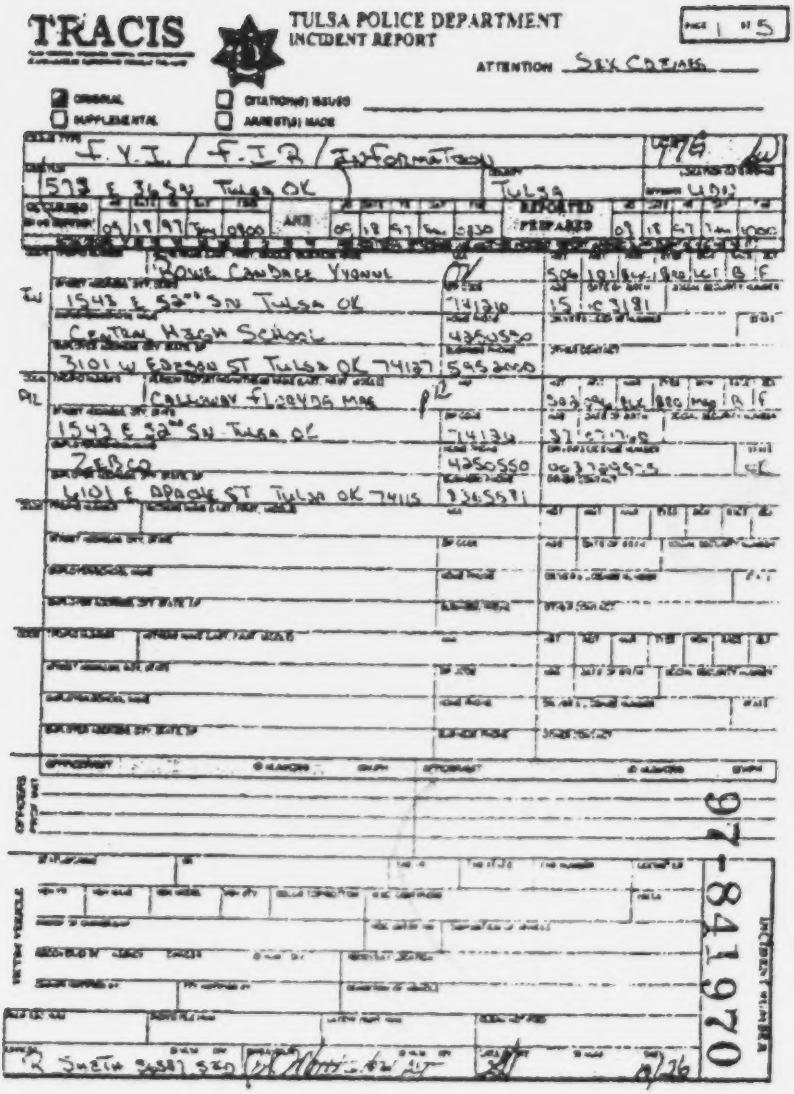


EXHIBIT "B"



TRACIS

TULSA POLICE DEPARTMENT
INCIDENT REPORT

PAGE 1 OF 5

ATTENTION SEX CRIMES

☒ ORIGINAL ☐ SUPPLEMENTAL ☐ CITATION(S) ISSUED ☐ ARREST(S) MADE

F.Y.I. / F.I.B. / Information

4776 W

573 E 36th St Tulsa OK — Tulsa — 4 Miles

REPORTED 09 19 97 Fri 0900 — PREPARED 09 19 97 Fri 1000

PI: Rowe, Candace Yvonne — OK — 506 10/84 Blk 120 Hwt B F
1543 E 52nd St N Tulsa OK — 74130 — 15 C 3181
Carter High School — 4350550
3101 W Edison St Tulsa OK 74127 — 595 2000

PI2: Calloway, Edwards Mae — 506 Blk 120 Hwt B F
1543 E 52nd St N Tulsa OK — 74130 — 37 C 7705
Zebra — 4350550 — 00 32895-5
4101 E Apache St Tulsa OK 74115 — 3365571

OFFENSES — 97-841970

VEHICLE — INCIDENT NUMBER

R Smith 9887 SEO — 9/26

RACIS

TULSA POLICE DEPARTMENT
NARRATIVE SUPPLEMENTAL
WORTHLESS DOCUMENT

Page 3 of 5

Randy Y Rowe

REPORTED / OCCURRED

"WHAT DO YOU WANT" COCHRAN THEN REPLIED "YOU HAVE A VERY PRETTY ROWE REPLIED I'M ONLY (15) YEARS OLD AND COCHRAN THEN SAID "I AM SORRY I'M KIDDING."

"ROWE WAS GIVEN THE PAPER PERM WORK TO GET HER PERMIT AND THOUGH COCHRAN TOLD HER SHE HAD PASSED THE TEST.

* DEPARTMENT OF PUBLIC SAFETY'S INTERNAL AFFAIRS LT. BURRIS IS INVESTIGATING INCIDENT (405) 425-8137

97-84197

Q 1/2

OFFICER NARRATIVE — USE CHRONOLOGICAL OUTLINE FORMAT

ACIS

TULSA POLICE DEPARTMENT

FIELD INTERVIEW REPORT

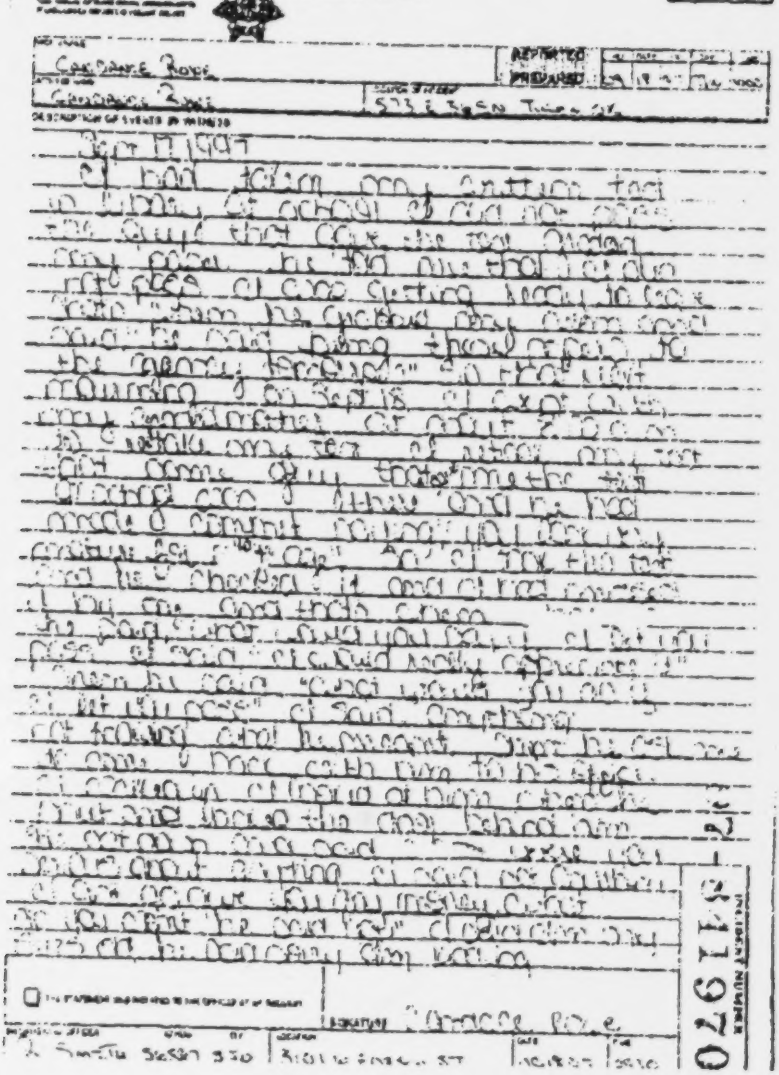
SUSPECT SUPPLEMENTAL

ATTENTION

97-8197

TRACIS

TULSA POLICE DEPARTMENT
WITNESS STATEMENT



STATE OF OKLAHOMA

DEPARTMENT OF PUBLIC SAFETY

September 25, 1997

Ms Candace Rowe
C/O Floryda M Calloway
1543 E 52nd St. North
Tulsa, OK 74126

Dear Ms. Rowe

This letter will acknowledge the receipt of your complaint on September 25, 1997 concerning the actions of Driver License Examine Don Cochran.

An investigation of the alleged incident is currently being conducted by the Department of Public Safety/Oklahoma Highway Patrol Internal Affairs and Special Investigations Division.

You will be notified of the findings of this investigation as soon as it is finalized.

Sincerely,

"s/Scott E Watkins "
(Signed)
SCOTT E WATKINS
Assistant Commissioner

SEW/cr

PO BOX 11415 • OKLAHOMA CITY, OKLAHOMA 73136-0415 • 3600 NORTH KING AVENUE • OKLAHOMA CITY, OKLAHOMA 73111 • (405) 425-2424

STATE OF OKLAHOMA
DEPARTMENT OF PUBLIC SAFETY

April 7, 1998

Ms, Floryda Callaway
1543 E. 52nd Street North
Tulsa, OK 74126

Dear Ms. Callaway:

I received your letter requesting information regarding the disciplinary action taken against Driver License Examiner Donald Cochran #2133. We are unable to provide the information you have requested. Personnel records regarding disciplinary action are not open records as defined in the state's *Open Records Act*, Title 51 §24A.7.

As stated in my previous letter, I am confident the Department has taken adequate disciplinary action to correct any inappropriate behavior. I too share your concern that employees of the Department conduct themselves in a professional manner at all times while serving the public.

Though the information you requested cannot be provided, I hope this letter reassures you the Department demands high standards from its employees and will take appropriate and just action when those standards are not maintained.

Sincerely,

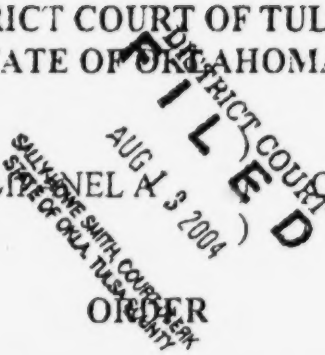
"s/Scott E Watkins "

(Signed)
SCOTT E. WATKINS
Assistant Commissioner

SEW/kg

P.O. BOX 11415 • OKLAHOMA CITY, OKLAHOMA 73136-0415 • 2800 NORTH LINCOLN AVENUE • OKLAHOMA CITY, OKLAHOMA 73111 • (405) 425-2424

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA



In the Matter of)
A PETITION TO IMPANEL A) CJ - 2004 04931
GRAND JURY.)

ORDER

The Court has for its review the Petition to Impanel a Grand Jury filed with the Tulsa county Court Clerk on the 9TH day of August, 2004. Based upon the Court's review of said Petition, the Court finds:

2. The face of the Petition contains a reasonably specific identification of areas to be inquired into; and

3. The face of the Petition contains sufficient general allegations to warrant a finding that such inquiry may lead to information which, if true, would warrant a true bill of indictment.

IT IS THEREFORE ORDERED that the Petition to

EXHIBIT "D"

Impanel a Grand Jury filed with the Tulsa County Court Clerk on the 9th day of August, 2004, is sufficient to warrant further proceedings consistent with 38 O.S. 1991, §§ 101-108.

DATED this 10TH day of August, 2004.

"s/Thomas C. Gillert"
(Signed)
Honorable Thomas C. Gillert
Presiding Judge

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED
AUG 09 2004
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

In the Matter of	)	
A PETITION TO IMPANEL A	)	CJ 2004 04931
GRAND JURY.	)	

PETITION TO IMPANEL A GRAND JURY

The Petitioners, Pamela Smith and Candace Rowe, pursuant to Article II, Section 18 of the Oklahoma Constitution and 38 O.S.1991, §§ 101-108, petitions the Court for:

1. An order finding that the face of this petition contains a reasonably specific identification of areas to be inquired into and sufficient general allegations to warrant a finding that such inquiry may lead to information which, if true, would warrant a true bill of indictment or indictments;

2. A determination that the number of qualified electors who have signed the petition, as certified to the Court Clerk by the Election Board is sufficient to meet the requirements of Article II, Section 18 of the

Oklahoma Constitution, a determination that all other legal requirements have been met and entry of an order impaneling a grand jury to convene within thirty (30) days of the date the certification is received by the Court Clerk from the Election Board;

3. Upon the entry of the order impaneling the grand jury, entry of an additional order disqualifying the entire Tulsa County District Attorney's Office and Oklahoma Attorney General's Office from acting in the capacity of legal advisors to the grand jury or appointing such legal advisors; and

4. Such other and further relief as authorized by law.

The Jurisdiction and Authority of the Tulsa County District Court

1. Article II, Section 18 of the Oklahoma Constitution provides, in part:

> A grand jury shall be ordered by a district judge upon the filing of a petition therefore signed by the qualified electors of the county equal to the number of signatures required to propose legislation by a county by initiative petition ... and when so assembled, such grand jury shall have power to inquire into and return indictments for all character and grades of crime.

2. Title 38 O.S.1991, §§ 101-108 provide the procedural framework for the impaneling of grand jury. Section 101 requires a filing with the Court Clerk of the petition to impanel a grand jury prior to the obtaining of any signatures. Section 102 requires a determination by the presiding district judge of the sufficiency of the petition within four (4) days of the filing of the petition. Upon the entry of an order finding the petition to be sufficient, Section 103 provides that the circulators of the petition have forty-five (45) days to obtain sufficient signatures to authorize the entry of an order impaneling a grand

jury. If the number of signatures of qualified electors on the petition, as certified by the Election Board to the Court Clerk, is sufficient, and all other requirements of Sections 101-108 are met, Section 107 mandates that the presiding district judge shall order the impaneling of a grand jury to convene within thirty (30) days of the date the certification was received by the Court Clerk from the Election Board.

3. The underlying facts and circumstances of the areas of inquiry more particularly described herein occurred in Tulsa County, Oklahoma.

The Areas of Inquiry for the Grand Jury

1. The facts and circumstances related to the solicitation of sex by Don Cochran to Candace Rowe, which will include, but not be limited to, the following evidence:

a. Candace Rowe was a student at Central High School in Tulsa, Oklahoma in September, 1997.

b. Candace Rowe was born on October 31, 1981, and was 15 years old in September, 1997.

c. On or around September 17, 1997, Don Cochran, an employee for the Oklahoma Department of Public Safety (DPS) at the Northside facility in Tulsa County, Oklahoma, came to her school to administer a driver's license test to Ms. Rowe.

d. Don Cochran informed Candace Rowe that she failed the written portion of the test and told her to go to Northside DPS facility to retake the test.

e. On or about September 18, 1997, Ms. Rowe went to the Northside DPS facility and again took a written driver's license test.

f. Don Cochran was present at the Northside DPS facility at the time Ms. Rowe took the driver's test in the DPS office.

g. Mr. Cochran told Ms. Rowe she failed the test but asked Ms. Rowe "what would you do for me if I let you pass the test."

h. Ms. Rowe responded to Mr. Cochran that she would do "anything," and he directed her to a back room within the DPS facility.

i. Both Mr. Cochran and Ms. Rowe entered the back room, and Mr. Cochran locked the door to the room behind them.

j. Ms. Rowe alleges that Mr. Cochran asked again if she would do anything, and Ms. Rowe responded by asking if he wanted money.

k. Ms. Rowe alleges that Mr. Cochran indicated he wanted Ms. Rowe because she was pretty, implying that he wanted to engage in sex with her.

l. Ms. Rowe told Mr. Cochran she was only 15 years old and she unlocked the door and left the room.

m. Ms. Rowe immediately informed her mother and made a police report.

n. Ms. Rowe's allegations were investigated by the Tulsa Police Department, but no charges were ever filed against Mr. Cochran.

o. Ms. Rowe received a letter from the Commissioner of the Department of Public Safety assuring her that action had been taken against Mr. Cochran, but the letter was without further explanation.

2. The facts and circumstances related to the

investigation by the Tulsa Police Department or the Department of Public Safety into Ms. Rowe's allegations of solicitation of a minor by Don Cochran.

3. The facts and circumstances related to the repeated rape and sexual battery of Pamela Smith, which will include, but not be limited to, the following evidence:

a. Pamela Smith was an inmate in the custody of the Oklahoma Department of Corrections (DOC) from August, 1996, until September, 2000.

b. Between September, 1997, and August, 1998, Ms. Smith was housed at the Tulsa Community Corrections Center (TCCC).

c. Ms. Smith participated in the Prisoner Works Program (PWP) while an inmate at TCCC, and pursuant to contract, worked to perform

janitorial services for the Oklahoma Department of Public Safety (DPS) in the Jenks and Northside Tulsa locations.

d. The majority of the services performed by Ms. Smith occurred at the DPS Northside facility.

e. Ms. Smith alleges that beginning in November, 1997, a DPS employee named Don Cochran used his position to coerce sex from Ms. Smith on the property of the DPS facility.

f. Ms. Smith alleges that Mr. Cochran continued to use his position to coerce Ms. Smith into sexual acts, and he committed acts of sexual battery and rape against Ms. Smith at least once a month until May, 1998.

g. Mr. Cochran threatened to report Ms. Smith for DOC rules violations and to revoke privileges to coerce sexual acts from Ms. Smith.

h. Ms. Smith alleges in or around April, 1998, Mr. Cochran assalted her and raped Ms. Smith by use of a "glass salt shaker."

i. Ms. Smith alleges that she reported to a DPS supervisor, Ed Spencer, that Mr. Cochran was making salacious remarks to Ms. Smith and in one instance, had given Ms. Smith a condom for later use.

j. In August, 1998, TCCC was closed and Ms. Smith was removed to the Eddie Warrior Correctional Center facility in Taft, Oklahoma.

k. At the urging of Ms. Smith's DOC case worker, Carmillia Clincy, Ms. Smith reported the repeated acts of sexual battery and rape by Mr. Cochran that occurred while she was

working at the Northside DPS facility in Tulsa County, Oklahoma.

l. DOC conducted an investigation and presented the results to the Tulsa County District Attorney for a filing decision.

m. Ms. Smith wrote multiple letters to the Oklahoma Highway Patrol (OHP) requesting a complete and full investigation of her allegations of sexual battery and rape.

n. Ms. Smith received a letter dated December 16, 1998, from Ron J. Ward, the DOC regional director, stating that the matter had been fully investigated by the OHP and that the matter was closed.

o. Ms. Smith then received a letter dated December 17, 1998, from Lieutenant George Randolph of the Internal Affairs and Special Investigations Division of the OHP stating he

had been assigned to investigate Ms. Smith's allegations.

p. Ms. Smith wrote the Tulsa County District Attorney, Tim Harris, on three occasions dating back to December, 1998, and indicated that she did not want the case closed and continued to request prosecution of Don Cochran.

q. Lieutenant Randolph continued to investigate Ms. Smith's allegations of sexual battery and rape and recovered a "glass salt shaker" from the DPS Northside facility in Tulsa, Oklahoma, which Ms. Smith identified as an object that Mr. Cochran used to commit

rape by instrumentation upon her person.

r. Ms. Smith brought a federal civil action under 42 USC § 1983 in the Northern District of Oklahoma against Don Cochran, case number 00-CV-0035C in January, 2000.

s. The Oklahoma Attorney General's Office defended Mr. Cochran against Ms. Smith's allegation in the civil case.

t. In February, 2004, Ms. Smith alleges that she met with Tulsa County District Attorney, Tim Harris, and requested that her rape and sexual battery allegations against Don Cochran be prosecuted.

u. Ms. Smith alleges that Tim Harris told her that the case had been declined in March, 1999, and that she would be required to gather evidence herself such as the "glass salt shaker" before he could pursue a criminal prosecution of Mr. Cochran.

4. All of the facts and circumstances related to the investigation by DOC into Ms. Smith's allegations of rape and sexual battery by Don Cochran by DOC.

5. All of the facts and circumstances related to the investigation by OHP into Ms. Smith's allegations of rape and sexual battery against Don Cochran.

6. All of the facts and circumstances related to the Tulsa colly District Attorney's Office decision to decline to file criminal charges against Don Cochran for the allegations of rape and sexual battery made by Ms. Smith.

7. All character and grades of crime which the grand jury decides to inquire into.

8. All areas which the grand jury is required to inquire into pursuant to the Oklahoma Constitution and Oklahoma Statutes.

The Disqualification of the Entire Tulsa County District Attorney's Office and the Entire Oklahoma Attorney General's Office

The Petitioner, Pamela Smith, seeks the disqualification of the entire Tulsa County District Attorney's Office from acting as legal advisor to the grand jury. The Tulsa County District Attorney has declined to file any criminal charges against Don Cochran or any other suspect as a result of the investigation by DOC or OHP into the facts and circumstances of Ms. Smith's allegations of a sexual battery and rape against Don Cochran. The Petitioner seeks through this petition the impaneling of a grand jury which will review the physical, scientific, and testimonial evidence which has been developed and return a true bill of indictment against any person found legally culpable for the rape of Pamela Smith. The actions of the Tulsa County District Attorney's Office, including declining to file charges and refusal to answer multiple letters by Ms. Smith requesting prosecution, demonstrate that their position is

indirect contradiction to Ms. Smith's allegations, and therefore, a conflict of interest exists which prevents the Tulsa County District Attorney's Office from acting as legal advisor to the grand jury or appointing a legal advisor to the grand jury.

Further, the Oklahoma Attorney General's Office represented Don Cochran in a federal civil action based on the identical factual allegations made by Ms. Smith in this petition. In the course of the litigation between Ms. Smith and Mr. Cochran, the Oklahoma Attorney General's Office took a position contrary to Ms. Smith's allegations of sexual battery and rape and therefore a conflict of interest exists which prevents the Oklahoma Attorney General's Office from acting as legal advisor to the grand jury or appointing a legal advisor to the grand jury.

Further, the grand jury's inquiry into the facts and circumstances surrounding Ms. Smith's allegations of sexual battery and rape may necessarily include hearing testimony from witnesses, some of whom will be former and current employees of the Tulsa County District Attorney's Office or the Oklahoma Attorney General's Office. Also, the grand jury's inquiry may necessarily involve an investigation into the Tulsa County District Attorney's Office or the Oklahoma Attorney General's Office and its handling of their respective cases.

WHEREFORE, premises considered, the Petitioners, Pamela Smith and Candace Rowe, respectfully petitions the Court for:

1. An order finding that the face of this petition contains a reasonably specific identification of the areas to be inquired into and sufficient general allegations to warrant a finding that such inquiry may lead to

information which, if true, would warrant a true bill of indictment or indictments;

2. A determination that the number of qualified electors who have signed the petition, as certified to the Court Clerk by the Election Board, is sufficient to meet the requirements of Article II, Section 18 of the Oklahoma Constitution, a determination that all other legal requirements have been met, and entry of an order impaneling a grand jury, to convene within thirty (30) days of the date the certification was received by the Court Clerk from the Election Board;

3. Upon the entry of the order impaneling the grand jury, entry of an additional order disqualifying the entire Tulsa County District Attorney's Office and the entire Oklahoma Attorney General's Office from acting in the capacity of legal advisor to the grand jury or appointing such legal advisor to the grand jury; and

4. Such other and further relief as authorized by law.

Respectfully submitted,

"s/Mark L. Collier "
(Signed)
Mark L. Collier, OBA#13260
Attorney for Plaintiffs
RICHARDSON, STOOPS,
RICHARDSON & WARD
The Richardson Building
6555 South Lewis Avenue
Tulsa, Oklahoma 74136
(918) 492-7674
(918) 493-1925 Facsimile

VERIFICATION

STATE OF OKLAHOMA)
) SS.
COUNTY OF TULSA)

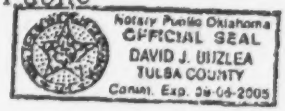
Pamela Smith, as petitioner, being first duly sworn upon oath, deposes and states that she has read the above and foregoing Petition to empanel a Grand jury, that she is familiar with the contents thereof, and that the facts therein set forth are true and correct to the best of her knowledge and belief.

"s/Pamela Smith"
(Signed)

Pamela Smith

Subscribed and sworn to before me this 9TH day of August, 2004.

"s/_____"
(Signed)
Notary Public



My Commission Expires:

9-6-05
[SEAL]

VERIFICATION

STATE OF OKLAHOMA)
) SS.
COUNTY OF TULSA)

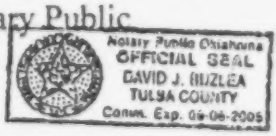
Candace Rowe, as petitioner, being first duly sworn upon oath, deposes and states that she has read the above and foregoing Petition to Impanel a Grand Jury, that she is familiar with the contents thereof, and that the facts therein set forth are true and correct to the best of her knowledge and belief.

"s/Scott E Watkins "
(Signed)

Candace Rowe

Subscribed and sworn to before me this 9th day of August, 2004.

"s/_____"
(Signed)
Notary Public



My Commission Expires:

9-6-05
[SEAL]

DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

In the Matter of	)
A PETITION TO IMPANEL A	) CJ - 2004-04931
GRAND JURY	)

DISTRICT COURT
FILED
DEC 8 2004
SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

SUBPOENA

To: [illegible]
[illegible]
c/o Department of Public Safety
State of Oklahoma

Greeting: You are commanded to appear as a witness before the Grand Jury of Tulsa County now in session on the fourth floor of the Tulsa County Courthouse, 500 South Denver, Tulsa. Oklahoma, on the 30th day of November, 2004, at 9:30 o'clock A M, and remain in attendance on and call of said Grand Jury from day to day and term to term until lawfully discharged.

Dated this 29th day of November, 2004.

GENE HAYNES
District Attorney for Craig, Mayes and Rogers Counties
Acting as Legal Advisor to the Tulsa County Grand Jury
By Special Appointment of the Attorney General.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the District Court of Tulsa County this 29th

day of November, 2004.

SALLY HOWE SMITH

By: "s/Carlene Voss "
(Signed)
Deputy

(Seal)

STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF CORRECTIONS
SOUTHEASTERN REGION

Pamela Smith, 159046
Eddie Warrior Correctional Center
Box 315
Taft, OK 74463-0315

Dear Ms. Smith:

I have reviewed your correspondence of December 10" in regards to your allegations of improper conduct on the part of an employee of another state agency.

I have looked into your allegations and have determined that this matter had previously been investigated by the Oklahoma Highway Patrol. Further you agreed and was subjected to a polygraph examination in regards to your allegations, which was conducted on October 13th, 1998. You were found to be deceptive in regards to your allegations that you had sexual activity with the employee.

I found no new information in your letter to indicate that this matter needed to be reopened. I consider this matter closed.

Sincerely,

"s/Ron J. Ward "
(Signed)
Ron J. Ward, Regional Director
Eastern Region

EXHIBIT "E"

RJW:LB:jk

cc: file

PS00177

123 EAST CARL ALBERT PARKWAY · McALESTER, OKLAHOMA 74501-5040 · (918) 423-4144 · FAX (918) 423-5870

STATE OF OKLAHOMA
DEPARTMENT OF PUBLIC SAFETY

Pamela J. Smith #159046 Dorm 3
Eddie Warrior Correctional Center
Box 315
Taft, OK 74463

December 17, 1998

1LT. George Randolph #22
Internal Affairs and Special Investigations
PO Box 11415
Oklahoma City, 73136

Dear Ms. Smith,

Please be advised that I have been assigned by the Oklahoma Highway Patrol Internal Affairs Division to investigate allegations you have made against an employee of the Department.

I will be in touch with you in the near future to conduct an interview.

Please direct any future correspondence to my attention at the above address.

Respectfully,

"s/1 Lt. George Randolph #22 12-16-98"
(Signed) (Dated)
1LT. George Randolph #22
LASI
Oklahoma Highway Patrol

PS00176

P.O. BOX 11415 • OKLAHOMA CITY, OKLAHOMA 73136-0415 • 1800 NORTH KING AVENUE • OKLAHOMA CITY, OKLAHOMA 73111 • (405) 425-2424